

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe the subject matter which Applicant regards as the invention.

Claims 4 and 5 have been rewritten in independent form with all of the elements of the base claim 2, and claims 6–8 have been amended to depend on amended claim 4. Claims 1–3 and 9 have been deleted. New claims 10–12 have been added and depend on amended claim 5.

Claims 1, 4, 5 and 9 stand rejected under 35 U.S.C. 102(b) as being anticipated by Pawlish et al. (U.S. Patent No. 5,276,916). Claims 2–5 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pawlish in view of Imai. (U.S. Patent No. 6,389,267). Claims 4 and 5 have been rewritten in independent form with all the elements of the base claim 2. Claims 1–3 and 9 have been canceled. For at least the following reasons, the Examiner's rejection is respectfully traversed.

None of the references disclose or suggest “a volume variable unit which adjusts a sounding volume of the *speaker* to a level substantially same as a sounding volume of the *receiver*” as recited in claims 4 and 5. The Office Action refers to col. 2, lines 28–44 and fig. 1 in Pawlish as disclosing a speaker and microphone.

The Office Action states that “the features upon which Applicant relies (i.e., the receiver in the present application is another speaker) are not recited in the rejected claims(s)” (Office Action, April 7, 2006). Applicant respectfully disagrees as the claim specifically mentions “a foldable mobile phone in which a first case having a transmission *microphone* and a second case having a *receiver*...comprising: a *speaker*, which is provided at a portion of the second case which is exposed when the first case and the second case are closed” and “a volume variable unit

which adjusts *a sounding volume* of the *speaker* to a level substantially same as *a sounding volume* of the *receiver*". Therefore, *both* the speaker *and* the receiver in the claim have a sounding volume.

In col. 2, lines 28–44 and fig. 1, Pawlish merely discloses a first housing portion 11 with one speaker port 22, and a second housing portion 12 with a first microphone port 23 on one surface and a second microphone port 24 on the second surface. Figure 4 in Pawlish, also only discloses one speaker 33.

Although Pawlish teaches a speaker 33, Pawlish clearly fails to teach having *both* a speaker with a sounding volume *and* a receiver with a sounding volume as in claimed invention. Thus, Pawlish does not disclose or suggest both a speaker with a sounding volume and a receiver with a sounding volume. Since Pawlish does not teach both a speaker with a sounding volume and a receiver with a sounding volume, Pawlish fails to disclose or suggest a volume variable unit that adjusts a sounding volume of the speaker to a level substantially the same as a sounding volume of the receiver.

Imai does not overcome the deficiencies of the Pawlish patent. Imai does not disclose or suggest adjusting a sounding volume of a speaker to a level substantially the same as a sounding volume of a receiver. Therefore, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

Further with regards to claims 4 and 5, none of the references disclose or suggest "a switching unit, which switches setting functions so that a first function for communicating by using the transmission microphone and the receiver is set *in a case of starting communicating by operating the first button*, and a second function for communicating by using the transmission microphone and the speaker is set such that the sounding volume of the speaker is adjusted to the level substantially same as the sounding volume of the receiver by the volume variable unit *in*

a case of starting communicating by operating the second button”, and as recited in claim 4 “wherein the switching unit switches to the first function when the first case and the second case are opened to each other in a state that the second function is set” or recited in claim 5 “wherein the switching unit switches to the second function when the first case and the second case are closed to each other in a state that the first function is set.”

By the above configurations, the user can switch the state of the mobile phone between the open state and the closed state even when the mobile phone executes a phone call or the phone call is received. For example, even when a communication is started in the closed state of the upper and lower cases, the user can open the cases while communicating since it is possible to shift the function of speaker and receiver between the first function and the second function (see page 15, first paragraph).

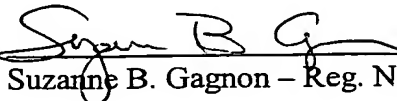
Pawlish fails to show the operation of the speaker switching to the first function as in claim 4 or the second function as in claim 5 in a case of starting communication. Imai does not overcome the deficiencies of the Pawlish patent. Imai also fails to show the operation of the speaker switching to the first function as in claim 4 or the second function as in claim 5 in a case of starting communication. Therefore, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

In light of the foregoing, it is respectfully submitted that the present application is in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned agent to expedite prosecution of the present application.

Appln. No. 10/516,968
Amdt. dated July 12, 2006
Reply to Office Action dated April 7, 2006

If there are any additional fees resulting from this communication, please charge same
to our Deposit Account No. 16-0820, our Order No.37251.

Respectfully submitted,
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